

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

Paper No. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RUSSELL S. GANS,
MICHAEL J. RAVENBERG, TERRY R. DAVIS
and
PATRICK G. JARBOE

Appeal No. 1997-0262
Application 08/286,795¹

ON BRIEF

Before ABRAMS, FRANKFORT and NASE, Administrative Patent
Judges.

¹ Application for patent filed August 5, 1994.

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FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1, 3 through 8 and 10 through 16, which are all of the claims remaining in the application. Claims 2 and 9 have been canceled.

Appellants' invention relates to a serviceable, tethered cover, airbag system wherein the cover can be disconnected and reconnected to the tether without disturbance of the connection at the other end of the tether. A copy of representative claims 1 and 8 can be found in the Appendix to appellants' brief.

The prior art references relied upon by the examiner in rejecting the appealed claims are:

MacFadden 1937	2,099,655	Nov. 16,
Hirabayashi 1990	4,911,471	Mar. 27,

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Seizert 1991	5,044,663	Sept. 3,
Sakakida et al. (Sakakida) 1992	5,150,919	Sept. 29,
Rogers et al. (Rogers) 1994	5,332,257	July 26,

Claims 1 and 8 stand rejected under 35 U.S.C. §
102(b) as being anticipated by Sakakida.

Claims 3, 5, 10 and 12 stand rejected under 35
U.S.C.
§ 103 as being unpatentable over Hirabayashi in view of
Sakakida.

Claims 4 and 11 stand rejected under 35 U.S.C. § 103
as being unpatentable over Sakakida in view of Seizert.

Claims 15 and 16 stand rejected under 35 U.S.C. §
103 as being unpatentable over Sakakida in view of MacFadden.

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Claims 6, 7, 13 and 14 stand rejected under 35
U.S.C.
§ 103 as being unpatentable over Rogers in view of MacFadden.

Rather than attempt to reiterate the examiner's full commentary with regard to the above-noted rejections and the conflicting viewpoints advanced by the examiner and appellants regarding the rejections, we make reference to the final rejection (Paper No. 10, mailed September 21, 1995) and the examiner's answer (Paper No. 17, mailed July 3, 1996) for the reasoning in support of the rejections, and to appellants' brief (Paper No. 16, filed February 13, 1996) and reply brief (Paper No. 19, filed August 12, 1996) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and

claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we have made the determinations which follow.

Looking first at the examiner's rejection of claims 1 and 8 under 35 U.S.C. § 102(b), we note that the examiner's position with regard to independent claim 1 seems to be that Sakakida's cover (24a, 24b), seen in Figures 8-10, can be removed for repair or replacement by merely removing the nuts (153, 155) and separating the tabs on the ends of the tethers (151) from the bolts (152, 154), without disturbing the connection of the tethers to the casing (21) at members (29) and (131). Like appellants, we find this position to be untenable. When the cover (24a, 24b) of Sakakida is in the position seen in Figure 8 of the patent, i.e., with the cover closing the panel opening (1a) and the tethers (151) interconnected between the cover and the bracket (29) of the airbag housing via holding members (131) and pins (135)

thereof, we see no way that one could remove the nuts (153, 155) without first having to disengage the connection

between the holding members (131, 135) and the bracket (29) as is explained in column 8, line 64, et seq., of Sakakida. This being the case, it follows that the cover of Sakakida Figures 8-10 is not "releasable for permitting removal or replacement of said cover means without disturbance of the connection of said tether to said at least one of said panel and said housing," as required in appellants' claim 1 on appeal. In this regard, we agree with appellants' arguments found on pages 4-6 of the brief and pages 2-3 of the reply brief. We particularly observe that the examiner's position (answer, page 5) that the nuts (153) can be accessed directly through a gap between the cover members and housing (said gap purportedly being found in Fig. 2 of Sakakida between the housing 20 opening and the doors 24a, 24b) is based on total speculation and finds no support whatsoever in the Sakakida reference. Thus, the examiner's rejection of claim 1 on

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appeal under 35 U.S.C. § 102(b) based on Sakakida will not
be sustained.

As for the examiner's rejection of independent claim
8 under 35 U.S.C. § 102(b) based on Sakakida, we note that
claim 8 sets forth releasable attachment means connecting the
tether

means and the cover means to permit disconnection and
reconnection of the cover means and the tether means, wherein
said attachment means comprises detachably interconnectable
male and female connectors, with

said male connector being longitudinally
slidable in said female connector to a
position at which it forms a connection
with said female connector.

The embodiments seen in Figures 7 and 8 of the
present application appear to be representative of the subject
matter set forth in claim 8 on appeal, given that the male
connector (78) in Figure 7 and the male connector (88) of

Figure 8 are each longitudinally slidable in their respective female connectors (75, 85) to a position at which the male connector forms a connection with said female connector.

Like appellants (brief, pages 6-7), we do not consider that sliding a bolt (e.g., 152) of Sakakida Figure 10 through the hole in a tab of one of the tethers (151) forms a connection with the female connector as is required in claim 8 on appeal. Claim 8 requires attachment means which comprise detachably interconnectable male and female connectors, wherein longitudinal

sliding of the male connector to a particular position within the female connector "forms" (i.e., causes) a connection to be made with the female connector. Such an arrangement is clearly not found in Sakakida. In the Sakakida patent, it is the nut (e.g., 153) which forms or causes the actual connection between the male connector (bolt) and the female connector (tether tab). Thus, since Sakakida only achieves a connection of its male and female connectors by rotationally

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applying a nut over the tab on the bolt, we must agree with appellants that Sakakida does not anticipate the subject matter set forth in claim 8 on appeal. Accordingly, the examiner's rejection of claim 8 under 35 U.S.C. § 102(b) based on Sakakida will not be sustained.

In the rejection of dependent claims 3, 5, 10 and 12 under 35 U.S.C. § 103, the examiner urges (final rejection, page 6) that it would have been obvious to one of ordinary skill in the art to modify Hirabayashi to include releasable attachment means such as taught by Sakakida in order to attach the tether (16) of Hirabayashi "using equivalent structure in the art." While we find this statement of the rejection to be somewhat cryptic, we note that the examiner provides further explanation

on page 7 of the answer, where it is noted that the skilled artisan would have found it obvious

to use a tab receiving the bolt on the end
of the strap as taught by Sakakida et al,

as the references as a whole would teach the artisan that such a tab may be used in the air bag art with a nut and bolt connection. Such a structure would be equivalent [to] the nut and bolt arrangement of Hirabayashi.

Thus, it appears to be the examiner's position that it would have been obvious to one of ordinary skill in the art to provide tabs like those seen in Figure 10 of Sakakida (on the tethers (151)) on the ends of the tether strap (16) in Hirabayashi where the strap (16) is attached to the housing base plate (6) by bolts (18) and nuts received thereon. Even if this combination were made, we fail to see that the subject matter set forth in appellants' claims 1, 3 and 5, and claims 8, 10 and 12, would have in any way been obvious to one of ordinary skill in the art based on the applied references. The connection focussed on by the examiner in this rejection is that between the tether of Hirabayashi and the airbag housing, not the connection between the tether and the cover as is defined in the claims on appeal. The connection in Hirabayashi between the cover (9) and the

tether strap (16) is a sewn connection at the middle part of the strap (see Hirabayashi, col. 3, lines 5-8). Since we agree with appellants that the collective teachings of Hirabayashi and Sakakida as applied by the examiner, or otherwise, would not render obvious the subject matter of claims 1, 3, 5, 8, 10 and 12 on appeal, it follows that we will not sustain the examiner's rejection of those claims under 35 U.S.C. § 103.

We have additionally reviewed the teachings of Seizert and MacFadden relied upon by the examiner in the rejection of dependent claims 4, 11, 15 and 16 under 35 U.S.C. § 103, however, we find nothing in these added references which provides for that which we have found above to be lacking in Sakakida or in Hirabayashi and Sakakida considered together. In addition, we agree with appellants (brief, pages 12-13) that the mounting bracket used in MacFadden for mounting parts, such as electrical units of a radio set, to an underlying support (2), is non-analogous art with regard to the tether/strap connections of the airbag systems of

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appellants and Sakakida. Accordingly the examiner's rejections of claims 4, 11, 15 and 16 under 35 U.S.C. § 103 will likewise not be sustained.

Turning to the last of the examiner's rejections, that of dependent claims 6, 7, 13 and 14 under 35 U.S.C. § 103 as being unpatentable over Rogers in view of MacFadden, we are at somewhat of a loss to understand exactly what the examiner's position is here given that neither of the independent claims 1 and 8, or intervening dependent claims 3 and 10 are rejected on the combination of prior art applied against dependent claims 6, 7, 13 and 14. We assume for purposes of this appeal that all of the limitations of claims 1, 3, 6 and 7, and claims 8, 10, 13 and 14 are considered by the examiner to be present in the combination of Rogers and MacFadden.

In this instance, we again note our agreement with appellants that MacFadden is non-analogous art. Moreover, even if MacFadden were to be considered to be analogous art,

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after reviewing the rejection as explained by the examiner on pages 10-12 of the answer, we find the examiner's position that one of ordinary skill in the art would have found it obvious to replace the permanent riveted connection between the bar (34), tether (30) and cover (22) in Rogers with a readily disconnect-able snap fastening connection means as in MacFadden to be

untenable and based on hindsight derived from appellants' own teachings. For those reasons, we will not sustain the examiner's rejection of claims 6, 7, 13 and 14 under 35 U.S.C. § 103.

In view of the foregoing, the examiner's decision rejecting claims 1 and 8 under 35 U.S.C. § 102(b) based on Sakakida, and the decision rejecting claims 3 through 7 and 10 through 16 under 35 U.S.C. § 103 are reversed.

REVERSED

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	NEAL E. ABRAMS)	
	Administrative Patent Judge)	
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PATENT			
	CHARLES E. FRANKFORT)	APPEALS AND
	Administrative Patent Judge)	
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